

WIA SUBGRANT AGREEMENT

SAN BERNARDINO COUNTY

REGISTRATION NO: R485301
MODIFICATION NO: NEW

SUBGRANTOR: State of California
Employment Development Dept.
Workforce Investment Division
P.O. Box 826680, MIC 69
Sacramento, CA 94280-0001

SUBGRANTEE: SAN BERNARDINO COUNTY
851 S.MOUNT VERNON AVE, SUIT 22
COLTON, CA 92324

GOVERNMENTAL ENTITY: YES

This Subgrant Agreement is entered into by and between the State of California, Employment Development Department, hereinafter the Subgrantor, and the SAN BERNARDINO COUNTY, hereinafter the Subgrantee. The Subgrantee agrees to operate a program in accordance with the provisions of this Subgrant and to have an approved WIA Local Plan for the above named Subgrantor filed with the Subgrantor pursuant to the Workforce Investment Act (WIA). This modification consists of this sheet and those of the following exhibits, which are attached hereto and by this reference made a part hereof:

Funding Detail Chart
General Provisions and standards of Conduct
Title I-Y (WIA TITLE I YOUTH FORMULA)

Exhibit AA, pages 1 through 1
Exhibit BB, pages 1 through 20
Exhibit DD, pages 1 through 1

ALLOCATION(s):

The Subgrantor agrees to reimburse the Subgrantee
not to exceed the amount listed hereinafter "TOTAL":

PRIOR AMOUNT: \$0.00
INCREASE/DECREASE: \$4,130,234.00
TOTAL: \$4,130,234.00

TERMS OF AGREEMENT:

From 04/01/2003 to 06/30/2005

Terms of Exhibits are as
designated on each exhibit

PURPOSE: To incorporate PY 2003/2004 Formula Youth funding into this new subgrant agreement using
grant code 301.

APPROVED FOR SUBGRANTOR (EDD) (By Signature)

APPROVED FOR SUBGRANTEE (By Signature)

Name and Title
BILL BURKE
ASSISTANT DEPUTY DIRECTOR
WORKFORCE DEVELOPMENT BRANCH

Name and Title

I hereby certify that to my knowledge, the budgeted
funds are available for the period and purpose of
expenditures as stated herein:

This Agreement does not fall within the meaning of Section
10295 of Chapter 2 of Part 2 of Division 2 of the Public
Contract Code of the State of California and pursuant to
58 OPS Cal. Atty. Gen. 586, is exempt from review or approval
of the Dept. of General Services and the Dept. of Finance:

Signature of EDD Accounting Officer

Signature of EDD Contract Officer

Budget item: _____ Code & Title _____ Amount Encumbered: _____
Federal Catalog No. 417259/ / State _____ Federal _____ Budgetary Attachment: YES
Chapter 379 Statutes: 2002 FY: 02/03 Fund: _____ PPS

EXHIBIT COVER SHEET

SUBGRANT NO: R485301
MODIFICATION NO: 00

EXHIBIT DD
Page 1 OF 1

SUBGRANTEE: SAN BERNARDINO COUNTY
FUNDING SOURCE: WIA TITLE I YOUTH FORMULA 101

TERM OF THESE FUNDS: 04/01/2003 TO: 06/30/2005

Use of funds added by this modification is limited to this period and additionally limited by the recapture provisions applicable to this funding source. The state may at its discretion recapture funds obligated under this exhibit, if expenditure plans are not being met.

PROGRAM NARRATIVE

This is to initiate the Program Year 2003/2004 Workforce Investment Act - Title I Master Subgrant by incorporating the Youth funds.

The subgrantee will operate this program in accordance with the approved Workforce Investment Plan in the Workforce Investment Division of the Employment Development Department, 800 Capitol Mall, MIC 69, Sacramento, California.

This exhibit adds to and does not replace the terms and conditions of any other exhibit included in this agreement which terms and conditions remain in full force and effect.

General Provisions and Standards of Conduct – Exhibit BB * LWIA

Subgrantee failure to comply with an order of a federal court which orders the Subgrantee to comply with an order of the National Labor Relations Board.

- d. *Prior Findings:* Subgrantee, by signing this agreement, does swear under penalty of perjury, that it has not failed to satisfy any major condition in a current or previous contract or grant with the Department of Labor (DOL) or the State of California and has not failed to satisfy conditions relating to the resolution of a final finding and determination, including repayment of debts.
- e. *Drug-Free Workplace Certification:* By signing this subgrant/contract, the Subgrantee/contractor hereby certifies under penalty of perjury under the laws of the State of California that the Subgrantee or contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq. and 29 CFR Part 98) and will provide a drug-free workplace by taking the following actions:
 1. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8350(a).
 2. Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b) to inform employees about all of the following:
 - the dangers of drug abuse in the workplace;
 - the person's or organization's policy of maintaining a drug-free workplace;
 - any available counseling, rehabilitation and employee assistance programs;
 - and,
 - penalties that may be imposed upon employees for drug abuse violations.
 3. Provide, as required by Government Code Section 8355©, that every employee who works on the proposed subgrant/contract:
 - will receive a copy of the company's drug-free policy statement; and,
 - will agree to abide by the terms of the company's statement as a condition of employment on the subgrant/contract.
- f. *Child Support Compliance Act:* In accordance with the Child Support Compliance Act, the Subgrantee/contractor recognizes and acknowledges :
 1. the importance of child and family support obligations and shall fully comply with applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and that to the best of its knowledge is fully

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2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress, in connection with this federal contract, grant, loan, and cooperative agreement, the undersigned shall complete and submit Standard Form-LLL (exhibit 1), "Disclosure Form to Report Lobbying" in accordance with its instructions.
 3. The undersigned shall require that the language of this certification be included in the award documents for subgrant/contract transactions over \$100,000 (per OMB) at all tiers (including subgrants, contracts and subcontracts, under grants, loan, or cooperative agreements), and that all subrecipients shall certify and disclose accordingly.
 4. This certification is a material representation of fact upon which reliance is placed when this transaction is executed. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, and U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.
- i. *Union Activities:* Subgrantee, by signing this Grant, hereby acknowledges the applicability of Government Code 16645 through 16649 to this Agreement. Furthermore, Subgrantee, by signing this agreement, hereby certifies that:
1. No state funds disbursed by this grant will be used to assist, promote or deter union organizing.
 2. Subgrantee shall account for state funds disbursed for a specific expenditure by this grant, to show those funds were allocated to that expenditure.
 3. Subgrantee shall, where state funds are not designated as described in (2) above, allocate, on a pro-rata basis, all disbursements that support the grant program.
 4. If Subgrantee makes expenditures to assist, promote or deter union organizing, Subgrantee will maintain records sufficient to show that no state funds were used for those expenditures, and that Subgrantee shall provide those records to the Attorney General upon request.

Failure to comply with all requirements of the certifications in Section 2 may result in suspension of payment under the subgrant/contract or termination of the subgrant/contract, or both, and the contractor or grantee may be ineligible for award of future state subgrants/contracts if the department determines that any of the following has occurred: (1) false information on the certifications, or (2) violation of the terms of the certifications by failing to carry out the requirements as noted above.

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provide direct financial benefit to that member (or immediate family of the member) or any business or organization which the member directly represents.

4. Coordination

Subgrantee will, to the maximum extent feasible, coordinate all programs and activities supported under this part with other programs under the WIA, including the Wagner-Peyser Act, Title 38 of the United States Code, and other employment and training programs at the State and local level.

5. Funding

This agreement is valid and enforceable only if (1) sufficient funds are made available by the State Budget Act of the appropriate State fiscal years covered by this Agreement for the purposes of this program and; (2) sufficient funds available to the State by the United States Government for the fiscal years covered by this Agreement for the purposes of this program. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress and Legislature or any statute enacted by the Congress and Legislature which may affect the provisions, terms, or funding of this subgrant in any manner. The Subgrantor has the option to void or amend this subgrant to reflect any reduction of funds.

- a. At the expiration of the term of this agreement or upon termination prior to the expiration of this agreement, funds not obligated for the purpose of this agreement will be immediately remitted to the Subgrantor, and no longer available to the Subgrantee.
- b. The Subgrantor retains the right to suspend financial assistance, in whole or in part, to protect the integrity of the funds or to ensure proper operation of the program, providing the Subgrantee is given prompt notice and the opportunity for a hearing. Failure on the part of the Subgrantee or a Subcontractor of the Subgrantee to comply with the provisions of this agreement, or with the WIA or regulations, when such failure involves fraud or misappropriation of funds, may result in immediate withholding of funds.
- c. The local Chief Elected Official of a unit of general local government designated as a local Workforce Investment Area shall be liable to the EDD for all funds not expended in accordance with WIA, and shall return to the EDD all of those funds. If there is more than one unit of general local government is a local Workforce Investment Area, the Chief Elected Official(s) will be individual(s) designated under an agreement executed by the Chief Elected Official(s) of the local units of government. The Chief Elected Official(s) designated under the agreement shall be liable to the EDD for all funds not expended in accordance with the WIA, and shall return to the EDD all of those funds.

General Provisions and Standards of Conduct – Exhibit BB * LWIA

author's rights, contract and licensing rights, works, mask works, industrial design rights, rights of priority, know how, design flows, methodologies, devices, business processes, developments, innovations, good will, any data or information maintained, collected or stored in the ordinary course of business by Subgrantor, and all other legal rights protecting intangible proprietary information as may exist now and/or hereafter come into existence, and all renewals and extensions, regardless of whether those rights arise under the laws of the United States, or any other state, country or jurisdiction.

- 1). For the purposes of the definition of Intellectual Property, "works" means all literary works, writings and printed matter including the medium by which they are recorded or reproduced, photographs, art work, pictorial and graphic representations and works of a similar nature, film, motion pictures, digital images, animation cells, and other audiovisual works including positives and negatives thereof, sound recordings, tapes, educational materials, interactive videos, computer software and any other materials or products created, produced, conceptualized and fixed in a tangible medium of expression. It includes preliminary and final products and any materials and information developed for the purposes of producing those final products. "Works" does not include articles submitted to peer review or reference journals or independent research projects.
- (c). In the performance of this Subgrant, Subgrantee may exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this Subgrant. In addition, under this Subgrant, Subgrantee may access and utilize certain of Subgrantor's Intellectual Property in existence prior to the effective date of this Subgrant. Except as otherwise set forth herein, Subgrantee shall not use any of Subgrantor's Intellectual Property now existing or hereafter existing for any purposes without the prior written permission of Subgrantor. Except as otherwise set forth herein, neither the Subgrantee nor Subgrantor shall give any ownership interest in or rights to its Intellectual Property to the other Party. If, during the term of this Subgrant, Subgrantee accesses any third-party Intellectual Property that is licensed to Subgrantor, Subgrantee agrees to abide by all license and confidentiality restrictions applicable to Subgrantor in the third-party's license agreement.
- (d). Subgrantee agrees to cooperate with Subgrantor in establishing or maintaining Subgrantor's exclusive rights in the Intellectual Property, and in assuring Subgrantor's sole rights against third parties with respect to the Intellectual Property. If the Subgrantee enters into any agreements or subcontracts with other parties in order to perform this Subgrant, Subgrantee shall require the terms of the agreement(s) to include all Intellectual Property provisions of **paragraphs one through nine**. Such terms must include, but are not limited to, the subcontractor assigning and agreeing to assign to Subgrantor all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the subcontractor, Subgrantee or Subgrantor and which result directly or indirectly from this Subgrant or any subcontract.

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Property made, conceived, derived from, or reduced to practice by Subgrantee or Subgrantor and which result directly or indirectly from this Subgrant may not be reproduced or disseminated without prior written permission from Subgrantor.

5. Patent Rights

With respect to inventions made by Subgrantee in the performance of this Subgrant, which did not result from research and development specifically included in the Subgrant's scope of work, Subgrantee hereby grants to Subgrantor a license as described under **paragraph three** for devices or material incorporating, or made through the use of such inventions. If such inventions result from research and development work specifically included within the Subgrant's scope of work, then Subgrantee agrees to assign to Subgrantor, without additional compensation, all its right, title and interest in and to such inventions and to assist Subgrantor in securing United States and foreign patents with respect thereto.

6. Third-Party Intellectual Property

Except as provided herein, Subgrantee agrees that its performance of this Subgrant shall not be dependent upon or include any Intellectual Property of Subgrantee or third party without first: (i) obtaining Subgrantor's prior written approval; and (ii) granting to or obtaining for Subgrantor's, without additional compensation, a license, as described in **paragraph three**, for any of Subgrantee's or third-party's Intellectual Property in existence prior to the effective date of this Subgrant. If such a license upon these terms is unattainable, and Subgrantor determines that the Intellectual Property should be included in or is required for Subgrantee's performance of this Subgrant, Subgrantee shall obtain a license under terms acceptable to Subgrantor.

7. Warranties

(a). Subgrantee represents and warrants that:

- 1.) It has secured and will secure all rights and licenses necessary for its performance of this Subgrant.
- 2.) Neither Subgrantee's performance of this Subgrant, nor the exercise by either Party of the rights granted in this Subgrant, nor any use, reproduction, manufacture, sale, offer to sell, import, export, modification, public and private display/performance, distribution, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Subgrantee or Subgrantor and which result directly or indirectly from this Subgrant will infringe upon or violate any Intellectual Property right, non-disclosure obligation, or other proprietary right or

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agreements of Subgrantee pertaining to Intellectual Property; or (ii) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of Subgrantor's use, reproduction, manufacture, sale, offer to sell, distribution, import, export, modification, public and private performance/display, license, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Subgrantee or Subgrantor and which result directly or indirectly from this Subgrant. This indemnity obligation shall apply irrespective of whether the infringement claim is based on a patent, trademark or copyright registration that was issued after the effective date of this Subgrant. Subgrantor reserves the right to participate in and/or control, at Subgrantee's expense, any such infringement action brought against Subgrantor.

- (b). Should any Intellectual Property licensed by the Subgrantee to Subgrantor under this Subgrant become the subject of an Intellectual Property infringement claim; Subgrantee will exercise its authority reasonably and in good faith to preserve Subgrantor's right to use the licensed Intellectual Property in accordance with this Subgrant at no expense to Subgrantor. Subgrantor shall have the right to monitor and appear through its own counsel (at Subgrantee's expense) in any such claim or action. In the defense or settlement of the claim, Subgrantee may obtain the right for

Subgrantor to continue using the licensed Intellectual Property; or, replace or modify the licensed Intellectual Property so that the replaced or modified Intellectual Property becomes non-infringing provided that such replacement or modification is functionally equivalent to the original licensed Intellectual Property. If such remedies are not reasonably available, Subgrantor may be entitled to a refund of all monies paid under this Subgrant, without restriction or limitation of any other rights and remedies available at law or in equity.

- (c). Subgrantee agrees that damages alone would be inadequate to compensate Subgrantor for breach of any term of this Intellectual Property provisions of **paragraphs one through nine** by Subgrantee. Subgrantee acknowledges Subgrantor would suffer irreparable harm in the event of such breach and agrees Subgrantor shall be entitled to obtain equitable relief, including without limitation an injunction, from a court of competent jurisdiction, without restriction or limitation of any other rights and remedies available at law or in equity.

9. Survival

The provisions set forth herein shall survive any termination or expiration of this Subgrant or any project schedule.

8. Termination

This agreement may be terminated in whole or in part for either of the two following circumstances:

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- c. Funds awarded the Subgrantee have not been expended in accordance with the schedule included in the approved local plan. After consultation with the Subgrantee, the Subgrantor has determined that funds will not be spent in a timely manner, and such funds are for that reason to the extent permitted by and in a manner consistent with State and federal law, regulations and policies, reverting to the Subgrantor.
- d. There is a change in State and federal law or regulation requiring a change in the provisions of this Subgrant. Except as provided above, this Agreement may be amended only in writing by the mutual agreement of both parties.

10. Insurance

Except for city and county governmental entities, Subgrantees must provide the Subgrantor evidence of the coverage specified in a, b, c and d below. The evidence of coverage shall include the registration number of the subgrant agreement for identification purposes.

- a. Subgrantee will obtain a fidelity bond in an amount of not less than N/A, prior to the receipt of funds under this agreement. If the bond is canceled or reduced, Subgrantee will immediately so notify the Subgrantor. In the event the bond is canceled or revised, the Subgrantor will make no further disbursements until it is assured that adequate coverage has been obtained.
- b. Subgrantee will provide general liability insurance with a combined limit of \$1,000,000 or public liability coverage for \$500,000 and property damage coverage for \$100,000. Regardless of the type of coverage secured, a minimum aggregate of \$1,000,000 for public liability and for property damage is required.
- c. Subgrantee will provide broad form automobile liability coverage with limits as set forth in (b) above, which applies to both owned/leased and non-owned automobiles used by the Subgrantee or its agents in performance of this agreement, or, in the event that the Subgrantee will not utilize owned/leased automobiles but intends to require employees, trainees or other agents to utilize their own automobiles in performance of this agreement, Subgrantee will secure and maintain on file from all such employees, trainees or agents a self-certification of automobile insurance coverage.
- d. Subgrantee will provide Worker's Compensation Insurance, which complies with provisions of the California Labor Code, covering all employees of the Subgrantee and all participants enrolled in work experience programs. Medical and Accident Insurance will be carried for those participants not qualifying as "employee" (Section 3350, et seq. of the California Labor Code) for Worker's Compensation.

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- e. Subgrantee shall not be required to maintain a separate bank account but shall separately account for WIA funds on deposit. All funding under this agreement, will be made by check or wire transfer payable to the Subgrantee for deposit in Subgrantee's bank account or city and county governmental bank accounts. To provide for the necessary and proper internal controls, funds should be withdrawn and disbursed by no less than two representatives of the Subgrantee. The Subgrantor will have a lien upon any balance of WIA funds in these accounts which will take priority over all other liens or claims.
- f. Failure to adhere to the reporting requirements in item 12 of this agreement will result in funds not being released.

12. Records

- a. If participants are served under this agreement, the Subgrantee will establish a participant data system as prescribed by the Subgrantor.
- b. Subgrantee will retain all records pertinent to this agreement for a period of three years from the date of final payment of this agreement. If, at the end of three years, there is litigation or an audit involving those records, the Subgrantee will retain the records until the resolution of such litigation or audit.
- c. The Subgrantor and/or the U. S. Department of Labor, or their designee will have access to and right to examine, monitor and audit all records, documents, conditions and activities related to programs funded by this agreement. Subgrantee's performance under the terms and conditions herein specified will be subject to an evaluation by the Subgrantor of the adequacy of the services performed, timeliness of response and a general impression of the competency of the firm and its staff.

13. Reporting

Subgrantee will compile and submit reports of activities, expenditures, status of cash and closeout information by the specified dates as prescribed by the Subgrantor.

14. Grievance and Complaint System

Subgrantee will establish and maintain a grievance and complaint procedure in compliance with WIA, federal regulations and State statutes, regulations and policy.

15. Conflicts

- a. Subgrantee will cooperate in the resolution of any conflict with the U. S. Department of Labor that may occur from the activities funded under this agreement.

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subcontractors, materials persons, laborers and any other persons, firms or corporations, furnishing or supplying work, services, materials, or supplies in connection with the performance of this agreement, and from any and all claims and losses accruing or resulting to any persons, firms or corporations which may be injured or damaged by the Subgrantee in the performance of this agreement.

19. Labor Organizations

Subgrantee will consult with the appropriate labor organizations and/or employer representatives in the design, operation or modification of the programs under this agreement.

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22. Confidentiality Requirements

The State of California and the Subgrantee will exchange various kinds of information pursuant to this agreement. That information will include data, applications, program files, and databases. These data and information are confidential when they define an individual or an employing unit. Confidential information requires special precautions to protect it from unauthorized use, access, disclosure, modification, and destruction. The sources of information may include, but are not limited to, the Employment Development Department, the California Department of Social Services, the California Department of Education, the County Welfare Department(s), the County IV-D Directors Office of Child Support, the Office of the District Attorney, the California Department of Mental Health, the California Office of Community Colleges and the Department of Alcohol and Drug Programs.

The Subgrantor and Subgrantee agree that:

- a. Each party shall keep all information that is exchanged between them in the strictest confidence and make such information available to their own employees only on a "need-to-know" basis.
- b. Each party shall provide written instructions to all of its employees with access to information provided by the other party of the confidential nature of the information and of the penalties for unauthorized use or disclosure found in section 1798.55 of the Civil Code, section 502 of the Penal Code, section 2111 of the Unemployment Insurance Code, section 10850 of the Welfare and Institutions Code and other applicable local, State and federal laws.
- c. Each party shall (where it is appropriate) store and process information in electronic format, in such a way that unauthorized persons cannot reasonably retrieve the information by means of a computer.
- d. Each party shall promptly return to the other party confidential information when its use ends, or destroy the confidential information utilizing an approved method of destroying confidential information: shredding, burning, or certified or witnessed destruction. Magnetic media are to be degaussed or returned to the other party.
- e. If the Subgrantor or Subgrantee enters into an agreement with a third party to provide WIA services, the Subgrantor or Subgrantee agrees to include these data and security and confidentiality requirements in the agreement with that third party. In no event shall said information be disclosed to any individual outside of that third party's authorized staff, subcontractor(s), service providers, or employees.
- f. Each party shall designate an employee who shall be responsible for overall security and confidentiality of its data and information systems and each party shall notify the